

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JONATHAN R. HEDTKE,

Case No. 14-CV-0819 (MJD/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

U.S. BANK NATIONAL ASSOCIATION,
Trustee for the Lehman Brothers Structured
Asset Investment Loan Trust Sail 2005-4 c/o
Chase Home Finance, LLC,

Defendant.

Plaintiff Jonathan R. Hedtke brought this action in March 2014 against defendant U.S. Bank National Association (“U.S. Bank”). One month later, Hedtke filed an amended complaint alleging that U.S. Bank was improperly attempting to foreclose on his property despite not having the authority to do so. Hedtke also applied to proceed *in forma pauperis* (“IFP”) in this litigation.

In an order dated June 10, 2014, this Court noted that Hedtke’s amended complaint was “plainly defective because it does not present a clear and coherent set of historical facts which, if proven true, could support some cause of action against” U.S. Bank. ECF No. 13 at 2. Rather than recommend dismissal of Hedtke’s complaint at that time, this Court provided Hedtke with one additional opportunity to amend his complaint. Hedtke was given until July 12, 2014 to file a second amended complaint, and he was warned that failure to file an amended pleading by that date would result in a recommendation that this case be dismissed for failure to prosecute. Hedtke later asked for an extension of this deadline; this Court granted Hedtke’s request and allowed him until September 1, 2014 to file a second amended complaint. *See* ECF No. 16.

Two weeks have passed since that extended deadline, and Hedtke has not filed a second amended complaint. It is therefore now recommended — in accordance with the Court’s prior order in this case — that Hedtke be deemed to have abandoned this action and that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

[Continued on next page.]

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS**
HEREBY RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).
2. Plaintiff Jonathan R. Hedtke's motion for a temporary restraining order [ECF No. 6] be **DENIED AS MOOT**.
3. Hedtke's applications to proceed *in forma pauperis* [ECF Nos. 2 & 12] be **DENIED AS MOOT**.

Dated: September 16, 2014

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge

Hedtke v. US Bank National Association
Case No. 14-cv-819 (MJD/TNL)

NOTICE

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 1, 2014**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within fourteen days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A district judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Eighth Circuit Court of Appeals.